IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA

CMPMOs No.208 and 209 of 2004

Date of Decision: 16th November, 2006

CMPMO No.208 of 2006	
Prem Lal	**Petitioner**
Versus	
Pankaj	**Respondent**
CMPMO No.209 of 2006	
Prem Lal	**petitioner**
Versus	
Nisha Devi	**Respondent**

Coram

The Hon'ble Mr. Justice V.K.Gupta, C.J.

Whether approved for reporting[1]?

For the petitioner: **Mr.A.K.Bansal, Advocte.**

For the respondent: **Mr.T.S.Chauhan, Advocate**

V.K.Gupta, C.J. (Oral)

By this common order, both the petitions are being disposed of together.

Touching upon the issue relating to the jurisdiction of the learned Court below in passing an order in terms of Hindu Adoption and Maintenance Act, 1956 and granting maintenance thereunder, learned counsel for the petitioner has referred to a judgment of this Court in the case of Baldev Singh v. Pooja Devi, reported in Latest HCJ 2006 (HP) 877, which I have very carefully perused. Indeed the aforesaid judgment does lay down that whereas the aforesaid 1956 Act does create right in favour of a Hindu child

---

[1] Whether the reporters of Local Papers are allowed to see the Judgment?

or a Hindu wife for claiming maintenance from the father or the husband as the case may be, it does not create any mechanism nor provide for any forum for claiming maintenance or for adjudication of any dispute between the parties and that if anyone wants to claim maintenance against the father or the husband the only remedy available is to file a suit in a Civil Court. On this being pointed out, Mr. Chauhan, learned counsel appearing for the respondents submits that the respondents in both the cases be permitted to withdraw the petitions filed by them before the learned District Judge under Hindu Adoption and Maintenance Act, 1956 and also be permitted instead to file Civil Suits for the aforesaid purpose in a Civil Court of competent jurisdiction. Prayer allowed.

Because of the aforesaid, both the petitions are allowed. The judgments impugned in both the cases are set aside. Because of the aforesaid prayer of Mr.Chauhan, both the petitions filed by the respondents in both the cases under Hindu Adoption and Maintenance Act, 1956 are dismissed as withdrawn. The respondents in both the cases are given liberty subject to all exceptions to file Civil Suits for the aforesaid purpose in a Civil Court of competent jurisdiction.

16th November, 2006 (V.K.Gupta), C.J.
(C)